

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Vincent L. Barr,

Plaintiff,

v.

**Williamsburg County c/o County Supervisor Stanley
Pasely; John Battiste, Jail Administrator;
Wilcox Buyck & Williams, P.A. Williamsburg
County Detention Center; and Kelvin Washington,
Sheriff of Williamsburg County,**

Defendants.

C/A No. 2:06-3577-CMC-RSC

O R D E R

Plaintiff, proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983. He claims his constitutional rights were violated due to his lack of access to law books and reference materials during his incarceration at the Williamsburg County Detention Center in Kingstree, South Carolina.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Robert S. Carr for pre-trial proceedings and a Report and Recommendation. On January 11, 2007, the Magistrate Judge issued a Report recommending that the complaint be dismissed without prejudice and without issuance and service of process, and that this complaint be deemed a “strike” for the purposes of the “three strike” rule of 28 U.S.C. § 1915(g). The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff has filed no objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court.

See Mathews v. Weber, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the complaint, the applicable law, the entire record and the Report and Recommendation of the Magistrate Judge, the court agrees with the recommendation of the Magistrate Judge. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Not only is this case subject to summary dismissal because it is frivolous and fails to state a claim (and, therefore, should be deemed a “strike” under 28 U.S.C. § 1915(g)), but this case is also subject to summary dismissal because Plaintiff has exceeded the number of “strikes” available to him under 28 U.S.C. § 1915(g), and the allegations of this complaint do not show that Plaintiff is in imminent danger of serious physical injury.

IT IS THEREFORE ORDERED that this matter is dismissed without prejudice and without issuance and service of process. It is

FURTHER ORDERED that this action is deemed a “strike” under the “three strikes” rule of 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
February 27, 2007

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